

Serial No. 09/687,348 (Atty. Docket No. Nagarajan 16-13-2 (LCNT/NAGJAN16)  
Amendment dated February 1, 2005  
Reply of Office Action of January 11, 2005

### REMARKS

In the Final Office Action dated January 10, 2005 and the Advisory Action dated February 24, 2005, the Examiner noted that claims 13-17, 21 and 38 are pending in the application, that claims 13 and 14 are rejected, and that claims 15-17, 21 and 38 are objected to as being dependent on a rejected base claim. By this response, Applicants have amended claim 13 to expressly call for the communication paths in the packet network, Applicants have also traversed certain rejections, and Applicants have expressly reserved the right to amend the objected to claims into independent form in a later response, if necessary.

In view of the following remarks, Applicants submit that the claims pending in the application are believed to be allowable under 35 U.S.C. §112 and 35 U.S.C. §102. Thus, Applicants believe that the application is in condition for allowance.

### EXAMINER INTERVIEW

Applicants' representative thanks the Examiner for the courtesies extended during the interview on April 7, 2005. During that interview, claim 13 was discussed in its presently amended form and the prior art was distinguished with respect to the comparing step in claim 13. While no agreement was reached at that time, the Examiner had promised to complete his study of the arguments presented with respect to both the amended claim and the prior art within the next several days. Given other extenuating circumstances and the running of the shortened statutory period for response, Applicants' representative felt that it would be prudent to submit the current amendment while the Examiner's study continued.

### I. REJECTION OF CLAIMS UNDER 35 U.S.C. §112

Claim 14 has been rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Applicants respectfully traverse the rejection.

In claim 14, as earlier amended, Applicants call for:

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*The method of claim 13 wherein the packet network is a signaling network for a transport network, wherein the at least two diverse communication paths are communication paths to a neighboring node of said node, wherein the neighboring node is determined as a function of a network topology of the transport network.*

In this claim, there is defined a packet network that is a signaling network for a transport network. Determination of the neighboring node is made by referencing the topology of the transport network.

FIG. 1 and the related portions of the specification beginning at page 3, line 28 et seq. discuss an optical communication system having an optical transport network (OTN) and a data communication network (DCN) therein. The DCN is said to be an IP control plane or a packet transport network for signaling messages. See Applicants' specification, p. 3, ll. 11-13. At page 4, line 26, Applicants draw the reader's attention to the fact these two networks do not share the same topology.

In view of this topology difference, Applicants define and describe a method in which the neighboring node is determined with reference to a particular network topology. Specifically, Applicants clearly describe in element 510 of FIG. 3 and in the accompanying detailed description beginning at page 5, line 18 that "each DCN node identifies its neighboring DCN nodes according to the underlying OTN topology" rather than according to the DCN topology. It is this determination that is defined by the final clause of claim 14. As such, the final clause of claim 14 is believed to be well supported by the original drawings and specification.

In light of the remarks above, it is submitted that claim 14 is clear and definite, particularly with reference to the meaning and use of the phrase "the neighboring node is determined as a function of the network topology of the transport network." Therefore, claim 14 is believed to be allowable under 35 U.S.C. §112.

## II. REJECTION OF CLAIMS UNDER 35 U.S.C. §102(e)

Claim 13 stands rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent 6,477,141 to Izawa et al. (hereinafter referenced as "Izawa"). This rejection is respectfully traversed.

Applicants have defined a method in independent amended claim 13 as follows:

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*A method for use in a node of a packet network including a plurality of communication paths, the method comprising the steps of:*

*receiving multiple copies of a signaling packet from at least two diverse communication paths of said packet network;*

*calculating a counter value related to a received packet identifier;*

*comparing the counter value with a packet identifier in each of the multiple copies of the received signaling packet to identify the multiple copies of the signaling packet; and*

*selecting one of the received multiple copies of the packet in response to comparing each packet identifier in the received multiple copies of the packet, wherein the one signaling packet selected is chosen without regard to the diverse communication path on which it is received.*

Izawa performs path quality monitoring within a dual configuration ATM switch. Cells having a particular VPI/VCI are monitored within the switch. At each stage of the switch, counters are enabled to count each appearance of a cell having the particular VPI/VCI in its header. The switch has multiple stages labeled by Izawa as an input subscriber section (stage 1), dual ATM switch sections (stages 3 and 4), and an output subscriber section (stage 2). When the monitoring period is concluded, a control section compares the counts in all the counters to insure that they are all the same. Izawa states that this invention insures that each of the dual paths through the ATM switch are operating properly in case there is a need to switch from the working or acting facility to the protection or standby facility. See Izawa, col. 6, ll. 4-15.

In contrast to Izawa, Applicants claim a method in which a multiple copies of a signaling packet are received from at least two diverse communication paths in the packet network. The paths, as claimed and as shown in the specification, are diverse because of the routes that are taken through the packet network before they get to the node or switch. Izawa teaches only diverse paths within the node or switch. Izawa does not teach receiving packets at the node wherein the packets have traversed diverse communication paths in the network.

Applicants call for a comparing step in which the counter value is compared with a packet identifier in each of the multiple copies of the received signaling packet to identify the multiple copies of that packet. Izawa employs counters that count the number of packets having a particular identifier, but Izawa nowhere teaches or suggests that the value in the counter is to be compared to the packet identifier. In addition,

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Izawa is not concerned with identifying the multiple copies of a packet. Instead, Izawa compares all the counter values to each other to insure that all the packets of interest traverse all the switch stages within the monitoring period. Multiple copies need not be identified in the Izawa switch because Izawa only allows transmission of packets from the acting or working path, not from the standby or protection path.

Finally, Applicants call for selecting one of the copies in response to the comparing step wherein the counter value and packet identifier are compared together. As mentioned above, Izawa does not perform a comparison of the type claimed by Applicants. While Izawa does select one packet stream over another, that selection is not performed in response to any comparison. The selection by Izawa is performed based on which of the paths through the switch is identified as a working or acting path. All other paths, the so-called protection paths, are ignored by the selector.

Since Izawa does not teach, show, or suggest the particular method steps defined by Applicants, Izawa clearly does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants submit that claim 13 is not anticipated by or made obvious in view of the Izawa patent. Therefore, it is submitted that claims 13 is allowable under 35 U.S.C. §102 and 35 U.S.C. §103.

### III. ALLOWABLE SUBJECT MATTER

Claims 15-17, 21, and 38 have been objected to as being dependent upon a rejected base claim, but have been said to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for indicating allowable subject matter. But Applicants believe that independent claim 13, from which these claims depend, is allowable over the prior art of record for the reasons set forth above. In light of the remarks above, Applicants respectfully request that the objection to claims 15-17, 21 and 38 be withdrawn.

In any event, Applicants expressly reserve the right to amend any one or more of claims 15-17, 21 and 38 into independent form in a later response, if necessary or desired.

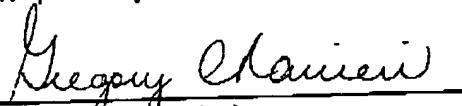
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**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for allowance. Entry of this amendment, reconsideration, and allowance are respectfully solicited.

If the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact Gregory C. Ranieri, Esq. at (732) 383-1394 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

  
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